



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. BILL
ATTORNEY GENERAL

May 10, 1977

Mr. Ben Hickey, General Manager
Tarrant County Water Control &
Improvement District Number One
P. O. Box 4508
Fort Worth, Texas 76106

Open Records Decision No. 161

Re: Whether conveyances and
condemnation orders concerning
property held by Water Control
and Improvement District are
excepted from public disclo-
sure by section 3(a)(3) as in-
formation relating to litigation.

Dear Mr. Hickey:

You request our decision pursuant to section 7 of
article 6252-17a, V.T.C.S., the Open Records Act. You have
received a request to inspect and copy all conveyances and
condemnation orders granting the District any property in-
terest in the Cedar Creek Lake Project.

You contend that the information is excepted from required
public disclosure under section 3(a)(3) which excepts "infor-
mation relating to litigation" that your attorney has deter-
mined should be withheld from public inspection. You explain
that the information requested is similar to that sought in
1972 by the law firm with which the requestor is associated
in a motion for discovery which was denied as being "not
relevant to the issues which plaintiffs may properly raise
in the action brought by them." That motion for discovery
was much broader than the instant request and sought to com-
pel production of

. . . copies of abstracts, research and
title opinions and any other title in-
formation that the defendant [District]
has as to the ownership of mineral in-
terests in and under lands flooded by
Cedar Creek Reservoir, together with
copies of plats or maps showing the
ownership and property lines . . . [and]
the elevation of all properties prior to
the construction of the Cedar Creek Re-
servoir now encompassed in said Reservoir.

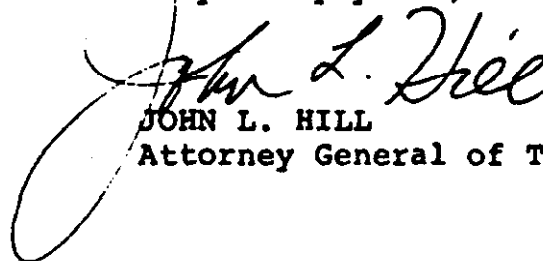
The requesting party is an attorney for a party in litigation with the District. However, as the Texas Supreme Court pointed out in Industrial Foundation of the South v. Texas Industrial Accident Board, 540 S.W.2d 668 at 674, 685 and 686 (Tex. 1976), cert. denied, 45 U.S.L.W. 3625, 3629 (1977), the Act prohibits consideration of the motives of the requesting party in determining whether the information must be disclosed. The particular requestor's purpose in making the request is not relevant.

The information requested is public and accessible through the records of the county in which the land involved is situated. Conveyances of land are required to be recorded in order to be valid against a subsequent purchaser. V.T.C.S. arts. 1289; 6627. Condemnation orders are conveyances and are required to be recorded. V.T.C.S. art. 3266, subdiv. 7; Parker v. Ft. Worth & D.C. Ry. Co., 19 S.W. 518, 520 (Tex. 1892). We have previously held that information specifically made public by statute does not come within the section 3(a)(3) exception. Open Records Decision Nos. 146 (1976); 43 (1974). See Open Records Decision No. 87 at 4 (1975). We believe that these decisions are applicable here.

We have previously held that a city's leases of its wharves are public, Open Records Decision No. 153 (1977), that a contract for the purchase of land is public, Open Records Decision No. 125 (1976), and that the University of Texas' files of its leases of land are public. Open Records Decision No. 56 (1974). The section 3(a)(3) litigation exception was not at issue in these decisions, but they indicate that this type of information is normally public when held by a governmental body.

It is our decision that the information requested is not excepted from required public disclosure by section 3(a)(3), and is public and should be disclosed.


very truly yours,

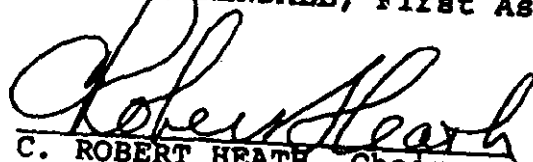
A large, stylized handwritten signature in dark ink, appearing to read "John L. Hill". The signature is written over the printed name and title.

JOHN L. HILL
Attorney General of Texas

Mr. Ben Hickey - page 3

APPROVED:


DAVID M. KENDALL, First Assistant


C. ROBERT HEATH, Chairman
Opinion Committee

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